

LABOUR DEPARTMENT

The 5th October, 1981

No. 9(1)81-6Lab./10877. —In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad; in respect of the dispute between the workmen and the management of M/s Mac Metal Works, Plot No. 2, Gurukul Road, P.O. Amar Nagar, Faridabad.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT,
HARYANA, FARIDABAD

Reference No. 98 of 1980

between

SHRI BAL CHAND, WORKMAN AND THE MANAGEMENT OF M/S MAC METAL WORKS, PLOT NO. 2, GURUKUL ROAD, POST OFFICE AMAR NAGAR, FARIDABAD

Present—

Shri R.L. Sharma, for the workman.

Shri J.S. Saroha, for the management.

AWARD

This reference No. 98 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/24-80/10719, dated 28th February, 1980, under Section 10(i)(c) of the Industrial Disputes Act, 1947, for adjudication of the dispute existing between Shri Bal Chand, workman and the management of M/s Mac Metal Works, Plot No. 2, Gurukul Road, Post Office Amar Nagar, Faridabad. The term of the reference was :—

Whether the termination of services of Shri Bal Chand was justified and in order? If not, to what relief is he entitled?

After receiving this reference, notices were sent to the parties. The workman appeared but none was present on behalf of the management. And the *ex parte* award was sent in favour of the workman on 24th July, 1980, to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, *vide* this Endorsement No. 1255, dated 1st August, 1980. This award has been published in the Haryana Government Gazette on 3rd September, 1980.

After the publication of this award, the management filed the application on 29th September, 1980, for setting aside the *ex parte* award dated 24th July, 1980. The notice was sent to the workman for 5th November, 1980, for reply and arguments on this application. On 5th November, 1980, arguments heard and the *ex parte* award is set aside subject to the payment of costs of Rs. 50 which was paid. The parties filed their pleadings. On the pleadings of the parties, issues were framed on 4th January, 1981, as under :—

- (1) Whether it is a case of voluntary resignation by the workman and collected his full and final? If so, to what effect? OPM
- (2) Whether the termination of services of the workman is proper, justified and in order? If not, to what relief is he entitled?

The management produced one witness Shri Harminder Singh, Manager, as MW-1 and stated that the workman joined the Company on 19th June, 1979, as a Polisher at the salary of Rs. 550 P.M. He started remaining absent from 25th December, 1979 and remained absent up to 16th January, 1980, without information and his name was struck off from the role of the Company on 16th January, 1980. He came on 5th January, 1980 and tendered his resignation, Exhibit M-1 which was accepted and communicated to the workman. He was advised to collect his full and final account on 7th January, 1980, but he failed. The workman raised a complaint in the Labour Inspector office and collected his full and final payment,—*vide* Exhibit M-2. This payment was made on 27th February, 1980, before the Labour Inspector, Faridabad. After receiving Rs. 313.24 there was no dispute or claims including the right of reinstatement or re-employment between the parties. The original documents were also seen and returned. The management also produced other witness Shri S. Pal, Clerk-cum-Store-keeper, as MW-2 and closed their case.

Then the case was fixed for the evidence of the workman. The dates were given to the workman for his evidence on 6th March, 1981, 3rd April, 1981, 30th April, 1981, 3rd June, 1981, 30th July, 1981, 26th August, 1981, 4th September, 1981 and 9th September, 1981, but he did not come for his evidence. On 9th September, 1981, the last date of hearing, the representative of the workman, Shri R.L. Sharma made a statement that he had tried to

contact the workman of Shri Bal Chand few time. The date of his evidence was also to be led to him but he had not come forward. He further stated that he had no further instructions from the workman to pursue his case and closed his statement. My finding on issue No. 1 is as under :—

Issue No. 1

The management produced two witnesses as MW-1 and MW-2 of Shri Harminder Singh, Manager and Shri Sat Pal, Clerk-cum-Storekeeper, which were stated that the workman remained himself absent from 25th December, 1979, without giving any information. The management also produced the resignation of the workman, Exhibit M-1 and the full and final payment, Exhibit M-2. The management did not terminate the service of the workman. It is a case of voluntary resignation by the workman and collected his full and final payment. In view of the unrebutted evidence produced by the management, I am left with no choice except to believe the version of the management. Over and above this my finding gets support from the absconing of the workman in the proceedings or his evidence of this reference. So I decide this issue in favour of the management and against the workman.

When the issue No. 1 is decided in favour of the management, there is no need to discuss on issue No. 2. So I hold that the workman abandoned his service himself by resignation and also collected his full and final payment. So the workman is not entitled to any relief. No order as to costs.

Dated 16th September, 1981

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 2797, dated 17th September, 1981.

Forwarded (four copies) to the Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the above-said award may please be acknowledged within week's time.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9(1)81-6-Lab./10665.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Supreme Engineering Industries (P) Ltd., Mathura Road, Faridabad.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA, FARIDABAD

Reference No. 292 of 1978

between

SHRI RANJEET SINGH, WORKMAN AND THE MANAGEMENT OF M/S SUPREME
ENGINEERING INDUSTRIES (P) LTD., MATHURA ROAD, FARIDABAD

Present—

Shri R.L. Sharma, for the workman.
Shri M.P. Gupta, for the management.

AWARD

By order No. ID/FD/8-N-78/34340, dated 21st July, 1978, the Governor of Haryana referred the following dispute between the management of M/s Supreme Engineering Industries (P) Ltd., Mathura Road, Faridabad and its workman Shri Ranjeet Singh, workman, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Ranjeet Singh was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed :—

- (1) Whether the workman abandoned his job of his own ?
- (2) Whether the workman was estopped from raising the dispute ?
- (3) Whether the termination of services of the workman was justified and in order ?
- (4) Relief.

And the case was fixed for the evidence of the management. The management did not appear, therefore, *ex parte* evidence of the workman was recorded and *ex parte* award was passed by my predecessor on 30th November, 1979. This award was set aside on an application of the management and the case was fixed for the evidence of the management who examined Shri Robin Sarkar Supervisor of M/s. Harsh Vardhan Electronics as MW-1 and Shri Bhanwar Lal Accountant as MW-2 and closed its case. The workman examined himself as WW-1 and Shri Didan Dev Nath as WW-2 and closed his case. Arguments were heard. I now give my finding issue-wise :—

Issue No. 1 :

MW-1 stated that he knew the concerned workman, who worked under him in Supreme Engineering. The workman was not regular in his duties. He was asked to be regular because there was a loss of production. He did not obey. The factory stood closed from January, 1980. In cross examination he stated that the workman remained absent continuously for 2-3 months. He remember the month of November as the month of his absence. The witness had taken all his dues from M/s. Supreme Engineering. All the other workmen had also received their final dues. They were told of the closure a month prior to closing of the factory. He did not know Shri Ranjeet Singh was absent due to his illness but no application was received from the workman. MW-2 stated that Supreme Engineering factory was closed from January 1980. He was Accountant in the factory. Shri Ranjeet Singh the workman concerned was an employee of the factory. Letter Exhibit M-1 was given by the Manager and so, Exhibit M-2 and M-3. Exhibit M-4 was record of attendance of the workman. Letter Exhibit M-5 bear his signature which was sent to the workman along with dues. The workman had refused to receive the same. In cross examination he stated that he joined this concern in November, 1976. Exhibit M-1 to M-4 did not bear his signature but the signature of the Manager were there. Exhibit M-5 bear his signature. Exhibit M-5 was written by Shri Bansal Clerk. He denied that the letter was prepared later on. He further stated that the workman had not submitted any medical certificate.

WW-1 stated that he worked in the factory for 2½ years. He fell sick and submitted medical certificate to the company. The factory was still functioning. The sign board of the factory had been changed by the employer. In cross examination he stated that the name of the factory was now Harsh Vardhan Electronics and its owner was Shri A.K. Mantry. He further stated that he fell sick on 7th December, 1977 and remained sick upto 5th April, 1978. Prior to 7th December, 1977 he was on sick leave. He had submitted his medical certificate to the management. The management did not receive medical certificate but no report was made by him to the Labour Officer or Labour Inspector. He denied that he was habitual absentee. WW-2 stated that he knew the concerned workman and was terminated on 6th April, 1978. In cross-examination he stated that the workman was sick in 1977 and was absent. He admitted that the attendance was daily recorded in the factory. He further admitted that the concerned workman was absent for four months in 1977-78. The Director had arranged for his treatment. He did not know if M/s. Harsh Vardhan Electronics was a partnership concern or limited concern. He did not know the name of the Directors or Partners of the company. He did not know if the workman had applied for leave.

The representative for the management argued that the factory was closed. There were less than 50 workmen in the factory and section 25(FFF) was not applicable. He further argued that the workman was a habitual absentee and remained absent from November to January, therefore, his name was struck off. On the other hand the representative for the workman argued that there was no proof of closure of the factory. The workman was ill and no chance of explanation or chargesheet was given to him. When the workman reported for duty he was not taken by the management. No letter was ever issued to him.

The management has produced, Exhibit M-3 showing apology dated 18th November, 1977 written by the workman for remaining absent. Exhibit M-4 attendance chart shows that the workman was on leave from 5th December, 1977 to 10th December, 1977. 11th December, 1977 was off day and he was continuously absent upto 30th January, 1978 when his name was removed. The workman has not proved any application or letter to show that he sent his application in the month of December, 1977 for extension of his leave. WW-2 has admitted in his statement that attendance was regularly marked in the factory. The workman and his witness have admitted that no leave application was submitted for extension of leave. The management has proved continuous absence of the workman and has made out a case of abandonment. This issue is, therefore, decided in favour of the management.

Issues No. 2 to 4 :

As issue No. 1 has been decided in favour of the management hence these issues need no decision.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana, Faridabad.

No. 789, dated 9th September, 1981

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 9(1)-81-6Lab./10666.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Aggarwal and Co., Railway Road, Ballabgarh.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 52 of 1981

between

SHRI CHANDGI RAM WORKMAN AND THE MANAGEMENT OF M/S AGGARWAL
AND CO., RAILWAY ROAD, BALLABGARH

Present :

None for the workman.

Shri R.C. Sharma for the management.

AWARD

By order No. ID/FD/11/81/8960, dated 20th February, 1981, the Governor, of Haryana referred the following dispute between the management of M/s. Aggarwal and Co., Railway Road, Ballabgarh and its workman Shri Chndgi Ram, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Chandgi Ram was justified and in order If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties issues were framed and the case was fixed for the evidence of the workman but on 4th August, 1981 the representative for the management stated that a settlement had been arrived at between the parties. According to the settlement the workman had received Rs. 1425 from the management. After receipt of the said sum the workman shall not be entitled for re-instatement or re-employment or any other claim whatsoever.

In the circumstances, I give my award that the dispute had been settled mutually and there was no dispute left pending for adjudication.

Dated the 7th September, 1981,

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana, Faridabad.

No. 790, dated 9th September, 1981

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.